



August 4, 1999

Mr. Edwin E. Powell, Jr.
Coryell County Attorney
Coryell County
P.O. Box 796
Gatesville, Texas 76528

OR99-2198

Dear Mr. Powell:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 126403.

The Coryell County Sheriff's Office (the "sheriff's office") received requests for the policies, procedures, and administrative staff manuals of the sheriff's office, certain financial information, information concerning Investigator Holmes, and information concerning sexual assault cases handled by the sheriff's office. You do not have information responsive to the request for financial information and information concerning Investigator Holmes. You ask whether you have to provide the requested policies, procedures, and staff manuals. Furthermore, you contend that the information concerning sexual assault cases is excepted from disclosure by the privacy doctrine.

First, you ask whether you have "the right to ask the request[o]r to narrow, or specify exactly what area, or period of time, he is requesting this information for. It would be an unfair burden upon Coryell County to make it go back into its entire history to give him a list of any/all sexual assault cases ever handled by the Coryell County Sheriff's Department." Section 552.222 of the Government Code permits a governmental body to ask the requestor to clarify or narrow the scope of the request. Section 552.222(b) provides:

If what information is requested is unclear to the governmental body, the governmental body may ask the requestor to clarify the request. If a large amount of information has been requested, the governmental body may discuss with the requestor how the scope of a request might be narrowed, but the governmental body may not inquire into the purpose for which information will be used.

However, a request for records made pursuant to the Public Information Act may not be disregarded simply because a citizen does not specify the exact documents he desires. Open Records Decision No. 87 (1975). Numerous opinions of this office have addressed situations in which a governmental body has received either an "overbroad" written request for information or a written request for information that the governmental body is unable to identify or understand. Open Records Decision No. 561 at 8-9 (1990) states:

We have stated that a governmental body must make a good faith effort to relate a request to information held by it. Open Records Decision No. 87 (1975). It is nevertheless proper for a governmental body to require a requestor to identify the records sought. Open Records Decision Nos. 304 (1982); 23 (1974). For example, where governmental bodies have been presented with broad requests for information rather than specific records we have stated that the governmental body may advise the requestor of the types of information available so that he may properly narrow his request. Open Records Decision No. 31 (1974).

Therefore, in response to the request at issue here, the sheriff's office must make a good faith effort to relate the request to information in the possession of the sheriff's office and must help the requestor to clarify his request by advising him of the types of information available.

Next, we consider your arguments regarding the sexual assault cases. You argue that it would be burdensome to provide the requested information. The fact that it may be burdensome to provide the information at issue does not relieve a governmental body of its responsibility to comply with the Public Information Act. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (1976), *cert. denied*, 430 U.S. 931 (1977) (cost or difficulty in complying with act does not determine availability of information); Open Records Decision No. 497 (1988).

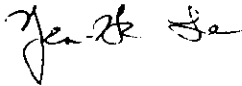
Moreover, we note that you did not submit to this office copies or representative samples of the specific information that was requested. Pursuant to section 552.303(c) of the Government Code, this office notified you by letter dated June 4, 1999, that you had failed to submit the information required by section 552.301(b). We requested that you provide this information to our office within seven days from the date of receiving the notice. The notice further stated that under section 552.303(e) failure to comply would result in the legal presumption that the information at issue was presumed public.

You did not provide our office with the information that was requested. Therefore, as provided by section 552.303(e), the information that is the subject of this request for information is presumed to be public information. Information that is presumed public must be released unless a governmental body demonstrates a compelling interest to withhold the information to overcome this presumption. See *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.--Austin 1990, no writ) (governmental body must make compelling

demonstration to overcome presumption of openness pursuant to statutory predecessor to Gov't Code § 552.302); Open Records Decision No. 319 (1982). Thus, you must provide the requestor with the responsive information unless it is confidential by law. Gov't Code § 552.352 (distribution of confidential information may constitute criminal offense). We note that information that identifies a sexual assault victim is protected by common-law privacy as encompassed by section 552.101 of the Government Code.¹ Open Records Decision No. 339 (1982).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/nc

Ref: ID# 126403

cc: Mr. Mark S. Sandefur
P.O. Box 201093
Austin, Texas 78720

¹Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 552.101 encompasses common-law privacy and excepts from disclosure private facts about an individual. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Therefore, information may be withheld from the public when (1) it is highly intimate and embarrassing such that its release would be highly objectionable to a person of ordinary sensibilities, and (2) there is no legitimate public interest in its disclosure. *Id.* at 685; Open Records Decision No. 611 at 1 (1992).